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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,146	01/15/2004	Donald Royce Patterson		8143

7590

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EXAMINER

WILSON, GREGORY A

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/764,146

Applicant(s)

PATTERSON, DONALD ROYCE

Examiner

Gregory A. Wilson

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities:

There is no reference to Figure 1A,

Page 2 of the specification is incomplete.

Appropriate correction is required.

### ***Claim Objections***

Claim 3 is objected to because of the following informalities:

In line 3, change "extract" to --exhaust--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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**Claims 1 & 2** are rejected under 35 U.S.C. 102(b) as being anticipated by **Halvorsen, Jr. (6,033,213)**. **Halvorsen, Jr.** discloses an apparatus (10) for bending pipe, having a 1<sup>st</sup> opening (32), a 2<sup>nd</sup> opening (at 22), a source (58) of hot exhaust gases, a conduit (unnumbered, but the nose of the gun is a conduit) having a first end communicating with the second opening in the container and a second end adapted to be attached to the source of hot exhaust gases to route gases into the container to heat the pipe to be bent, a baffle (18) is adjacent the second opening in the container to disperse hot gases around the pipe to be bent. It is alternatively well known in the art to use exhaust from a motor vehicle as evidenced by Temple et al (4,437,453) enclosed by reference.

**Claims 1 & 2** are rejected under 35 U.S.C. 102(b) as being anticipated by **Hirayama (6,257,880)**. **Hirayama** discloses an apparatus (10) for heating a plastic pipe and includes a container having a first and second openings (40), a source (52) of hot exhaust gases, a conduit (76) having a first end communicating with the second opening in the container and a second end adapted to be attached to burner (52) to route gases into the container to heat the pipe, a baffle (56) mounted in the container adjacent the second opening to disperse the gases around the pipe to be bent. It is alternatively well known in the art to use exhaust from a motor vehicle as evidenced by Temple et al (4,437,453) enclosed by reference.

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**Claims 1-3** are rejected under 35 U.S.C. 102(e) as being anticipated by **Johnson (6,561,797)**. **Johnson** discloses an apparatus (10) having a container with a first opening (18) and a second opening (SEE element 35), a source of hot exhaust gases (36), a conduit having a first end which communicates with hole (35) and a second end attached to the source of hot exhaust gases (36); **Johnson** furthermore discloses a baffle (25) having openings (40) which distribute exhaust gases to heat the pipe. It is alternatively well known in the art to use exhaust from a motor vehicle as evidenced by Temple et al (4,437,453) enclosed by reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (703) 308-1239. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GREGORY WILSON  
PRIMARY EXAMINER

*Gregory A. Wilson*

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November 1, 2004